

1 STEVEN SCHMELZER

2 UNITED STATES DISTRICT COURT

3 FOR THE WESTERN DISTRICT OF WISCONSIN

4 - - - - -  
5 FRIENDS OF BLUE MOUND STATE PARK,

6 Plaintiff,

7 vs.

Case No. 21CV676

8 WISCONSIN DEPARTMENT OF NATURAL  
9 RESOURCES, et al.,

10 Defendants.  
11 - - - - -  
12

13 Deposition of STEVEN SCHMELZER

14 Wednesday, June 1, 2022

15 8:56 a.m. to 11:56 a.m.

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24 Reported by Jennifer M. Steidtmann, RPR, CRR, CRC

25 JOB NO. 209973

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1	STEVEN SCHMELZER		
2			
3	A P P E A R A N C E S		
4			
5	FOR THE PLAINTIFF:		
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18		P R E V I O U S L Y M A R K E D E X H I B I T S	
19		PAGE IDENTIFIED	
20	Exhibit No. 58 E-mail correspondence	43	
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24	(Original exhibits attached to original transcript; copies provided to attorneys ordering exhibit copies.)		
25			
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1	STEVEN SCHMELZER		
2	TRANSCRIPT OF PROCEEDINGS		
3	STEVEN SCHMELZER, called as a witness herein,		
4	having been first duly sworn on oath, was examined		
5	and testified as follows:		
6	EXAMINATION		
7	BY MR. POTTS:		
8	Q Good morning.		
9	A Good morning.		
10	Q How are you doing today?		
11	A Good.		
12	Q Can you just -- I'm going to start with some introductory questions.		
13	What is your full name?		
14	A Steven John Schmelzer.		
15	Q And can you spell the last name?		
16	A Sure. It's S-C-H-M-E-L-Z-E-R.		
17	Q Okay. And what is your address? And work is fine.		
18	A 101 South Webster, Madison, Wisconsin.		
19	Q Okay. And are you taking any medications that would affect your ability to testify truthfully today?		
20	A Some allergy stuff, but I don't think that will impact it.		
21	Q Okay. Have you ever been deposed before?		
22	A Yes.		
23			
24			
25			

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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	A As either arresting officer or a backup officer.	2	And finally along the same lines, if I ask
3	Q I see. Are you --	3	you a question, try to let me finish the question
4	A Or trainer.	4	before you answer, and I'll do the same with you.
5	Q Okay. Well, so were you a police officer in some	5	If you don't understand a question I ask,
6	form?	6	do you understand that you can ask me to clarify the
7	A Yes.	7	question?
8	Q I see. And do you understand you're under oath today	8	A Yes.
9	and must testify truthfully?	9	Q Okay. So it's fair to say that if I ask you a
10	A Yes.	10	question and you answer, that you understood that
11	Q Do you understand that that oath is just as binding	11	question?
12	today as it would be if we were sitting in the	12	A Yes.
13	courtroom?	13	Q How did you prepare for this deposition today?
14	A Yes.	14	A With my attorney.
15	Q Now it sounds like you've done this before, but	15	Q Other than discussions with your attorney, did you
16	please remember that you must answer all questions	16	review any documents?
17	audibly so that the court reporter can take down your	17	I -- the interrogatory, I took a look at that, and
18	answers.	18	the other exhibits.
19	A Right.	19	Q Which other exhibits?
20	MS. CARSON: You don't need to take notes.	20	A Yeah, there's a whole -- there was two different
21	BY MR. POTTS:	21	packets of them that I -- that I paged through.
22	Q And please remember to give verbal responses, no head	22	Q Okay. Did -- so just to clarify for the record, you
23	nods, and we should do our best to avoid talking over	23	paged through the previous deposition exhibits?
24	each other because it's hard for the court reporter	24	A Yes.
25	to write down two people talking at once.	25	Q And did you review anything else in preparation for
	Page 8		Page 9
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	the deposition?	2	background?
3	A I think that's pretty much -- that's pretty much it.	3	A I have a Bachelor of Science in natural resources and
4	I mean, I've looked at my calendar but, yeah, I think	4	recreation resource management from University of
5	that's been it.	5	Wisconsin-Madison.
6	Q Did you review any other deposition transcripts from	6	Q Okay. Any other education beyond the Bachelor of
7	this proceeding?	7	Science?
8	A No.	8	A No.
9	Q Did you talk to anyone else who has been deposed so	9	Q And it sounded like you were previously a police
10	far in this proceeding?	10	officer. Did you have to do training for that?
11	A In passing. I knew that they had -- or they told me	11	A I was a park ranger and park superintendent.
12	that they had their deposition, but that was pretty	12	Q Oh, I see. And what's the -- I mean, what does that
13	much it.	13	job entail?
14	Q Okay. So you didn't discuss in detail any of --	14	A The -- the training or the specific -- the job?
15	anyone else's answers --	15	Q How about both.
16	A No.	16	A Okay. The training consisted -- I believe at the
17	Q -- during their depositions?	17	time it was a 400-hour Department of Justice mandated
18	Sorry. You got to let me finish. It's	18	training course, and then you have yearly updates of
19	hard. So you can answer the question now.	19	that. I think it's 24 hours per year. Then I was a
20	A No.	20	credential officer for 25 years.
21	Q Thanks. Other than the exhibits, and it sounds like	21	Q Sorry, could you say that again?
22	the -- you looked at your calendar, did you review	22	A I was a credential law enforcement officer for 25
23	anything else in preparation for the depositions?	23	years until there was periodic updates, and then I
24	A No.	24	did periodic other trainings, 20 or 30 other
25	Q Okay. Could you please summarize your educational	25	trainings, you know, from leadership to interviewing,

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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	interrogation. I was a defense and arrest	2	They enforce fish and game and boating, that was
3	instructor, a firearms instructor. So, you know,	3	their primary job responsibility, but they came and
4	quite a bit of primarily law enforcement training.	4	worked on recreational properties starting in 2018.
5	Q And -- but it sounds like you weren't actually a	5	Q Okay. So the conservation wardens effectively took
6	police officer; is that correct?	6	over for the police officer portion of the park
7	A We -- we have full arrest powers, full credentialed	7	ranger duties?
8	law enforcement powers.	8	A Yes.
9	Q And that's I -- I guess what was the job title then?	9	Q And that was -- happened in about 2018?
10	A Park ranger and then park superintendent, assistant	10	A Yes.
11	superintendent.	11	Q And I think you said roughly 25 years, but can you
12	Q Okay. And so -- and a park ranger effectively has	12	just go through your professional employment after
13	the same powers as a police officer?	13	graduating from UW-Madison?
14	A Yes, sir.	14	A I started as a limited term employee park ranger. I
15	Q Okay. And do all park rangers have to have that	15	did that for -- in 1992 and '93, and then I was hired
16	training to your knowledge?	16	as a permanent seasonal park ranger. I did that
17	A Not anymore.	17	until late '99, early 2000. And I was hired as an
18	Q Okay. And what changed? Or I guess if you could	18	assistant property superintendent, and I did that
19	just explain probably would be the fastest.	19	until 2008. And then I was the park superintendent.
20	A Department of Natural Resources transitioned to have	20	I did that until 2019. And then after 2019, February
21	conservation wardens cover all the law enforcement.	21	of 2019 I was the Southwest District Park Supervisor.
22	Q Okay. And so nowadays park rangers don't necessarily	22	And then July of last year I was promoted to the --
23	have to also have police officer training?	23	be the Director of Wisconsin State Parks.
24	A That's correct.	24	Q And when you were a park ranger, you were a park
25	Q And what is a conservation warden?	25	ranger at a lot of different parks, or were you
	Page 12		Page 13
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	focused on just certain parks?	2	2019, you had no or very limited involvement with
3	A I was at primarily Devil's Lake State Park, but also	3	Blue Mound State Park?
4	covered Natural Bridge State Park, and then later on	4	A That's correct.
5	Sauk Prairie State Park Recreation Area. I did help	5	Q And are you still -- and are you still a police
6	out at some other properties and, you know, other law	6	officer?
7	enforcement kind of things that happened. I was at	7	A No.
8	the capital in 2010-2011.	8	Q And when did you let that lapse, so to speak?
9	Q Okay. So -- but your primary responsibilities were	9	A 2018.
10	related to Devil's Lake and the parks near -- parks	10	Q 2018, I see. And was that when you were promoted to
11	and state properties near Devil's Lake?	11	a position that didn't require it?
12	A Yes.	12	A No.
13	Q Did you ever serve as a park ranger at Blue Mound	13	Q Or was that because the conservation warden change?
14	State Park?	14	A Yes.
15	A No.	15	Q I see. Do you hold any certifications?
16	Q Until you took over as the Director of the Wisconsin	16	A Not at this time.
17	State Parks, did you have any job responsibilities	17	Q In the past, other than the police officer related
18	related to Blue Mound State Park?	18	certifications, do you hold -- have you held any
19	A I was a southwest park district supervisor.	19	other certifications?
20	Q Okay. And --	20	A Pesticide application.
21	A And Blue Mound is in -- within that district.	21	Q Anything else?
22	Q I see. And can you remind me again what years you	22	A Scuba certified.
23	did that?	23	Q Okay. Anything else?
24	A Started in February of 2019 until 2021.	24	A No.
25	Q Okay. So is it fair to say that prior to February of	25	Q Have you had any training or schooling as a lawyer?

1 STEVEN SCHMELZER  
 2 A No.  
 3 Q Okay. So I believe you said you took over as the  
 4 Director of Wisconsin State Parks in 2021; is that  
 5 correct?  
 6 A Yes.  
 7 Q Do you remember roughly when in 2021?  
 8 A I believe it was July 12th.  
 9 Q And what does the Director of Wisconsin State Parks  
 10 do?  
 11 A General overall management and operations of  
 12 Wisconsin state parks, trails, forests.  
 13 Q And roughly how many employees are under you in that  
 14 position?  
 15 A Approximately 200 full-time equivalent employees, and  
 16 that varies depending upon vacancies, which is  
 17 always -- you know, people are retiring and coming  
 18 and going, and then up to 500 limited term employees.  
 19 Q Okay. And are those mostly park rangers?  
 20 A No.  
 21 Q Okay. What are the sort of -- and I don't need you  
 22 to list all 200, but what are the -- I am just trying  
 23 to understand the structure of the state park system  
 24 and who would report to you.  
 25 A My direct reports you're asking about?

1 STEVEN SCHMELZER  
 2 Q Yeah, I guess. Sure. We could start there.  
 3 A Okay. My direct reports would be the section  
 4 supervisors, so we have a partnership section  
 5 supervisor, we have an operations section supervisor,  
 6 a business supervisor, and then also a policy  
 7 supervisor.  
 8 Q And it -- does Missy Vanlanduyt -- hopefully saying  
 9 her name correctly.  
 10 A Vanlanduyt.  
 11 Q Vanlanduyt. Does she report to you?  
 12 A Yes.  
 13 Q And what is her role?  
 14 A She's the communication and partners -- partnership  
 15 section supervisor.  
 16 Q Okay. So she's one of the section supervisors that  
 17 is your direct report?  
 18 A Yes.  
 19 Q And I'm sorry, could you say her title again,  
 20 communications --  
 21 A Communications and partnership section supervisor.  
 22 Q Who is currently the director -- the Southwest  
 23 Director of State Parks?  
 24 A Brian Hefty is acting in that position.  
 25 Q And did he take over after you were promoted?

1 STEVEN SCHMELZER  
 2 A Yes. He -- he's a supervisor for that position, so  
 3 he took on those additional responsibilities.  
 4 Q I see. So he's also a section supervisor?  
 5 A Yes.  
 6 Q And what's his section that he supervises?  
 7 A He supervises the district supervisors.  
 8 Q That's a lot of supervisors. So what are the  
 9 district supervisors?  
 10 A Each part of the state has an area of responsibility  
 11 and a section of the state, and those are the  
 12 district supervisor.  
 13 Q I see. So the southwest would have been the  
 14 southwest district supervisor, which he is  
 15 supervising in his role; and so since there's no one  
 16 there, he's acting as that supervisor?  
 17 A Yes.  
 18 Q Okay. But from a practical perspective, Brian Hefty  
 19 and Missy Vanlanduyt are at the same managerial level  
 20 in the department?  
 21 A No.  
 22 Q Okay. How are they different?  
 23 A He -- Brian Hefty is also the deputy director.  
 24 Q So Brian Hefty is the deputy director directly under  
 25 you?

1 STEVEN SCHMELZER  
 2 A Yes.  
 3 Q And he also holds one of the section supervisor  
 4 roles?  
 5 A Yes.  
 6 Q Is there any other -- so he's sort of number two  
 7 below you?  
 8 A Yes.  
 9 Q I see. And is there anyone else at his -- at  
 10 Mr. Hefty's level?  
 11 A Within -- within parks or --  
 12 Q Yeah, within state parks.  
 13 A No.  
 14 Q Okay. All right. I think I now understand the --  
 15 thank you for that. And sorry I don't know all the  
 16 hierarchy inside the state parks division. So  
 17 there's a lot of nomenclature.  
 18 Q Okay. So I think I understand sort of  
 19 downstream of you, and now I'd like to understand  
 20 upstream.  
 21 A You're the Director of State Parks. Who  
 22 do you report to?  
 23 A Diane Brusoe.  
 24 Q And what is her role?  
 25 A She's the deputy administrator for fish, wildlife,

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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	and parks division.	2	Q And then above Ms. Brusoe, since there's no division
3	Q Okay. So she is basically number two in the fish and	3	administrator, who would Ms. Brusoe report to?
4	wildlife division?	4	A Deputy secretary.
5	A Yes.	5	Q And who is that?
6	Q And who is the actual administrator?	6	A Sarah.
7	A It's vacant right now.	7	Q What's her last name, do you remember?
8	Q Okay. So --	8	A Just escaped me for a second.
9	A Keith Warnke was the prior deputy -- or was the prior	9	Q That's all right. I understand.
10	division administrator.	10	And is Sarah the deputy -- what's she the
11	Q I see. And where did -- where is Keith now?	11	deputy secretary of?
12	A Retired.	12	A Of natural resources.
13	Q Okay. And is Diane Brusoe acting as the division	13	Q Oh, the whole department. So she's basically number
14	administrator in Keith's absence?	14	two?
15	A She shares the responsibility with Tami Ryan.	15	A Yes. Sarah Barry, I'm sorry.
16	Q And how do you spell that person's name?	16	Q Barry, okay. So she reports up to directly to
17	A T-A-M-I, R-Y-A-N.	17	Preston Cole?
18	Q Tami, okay. And -- and who is Tami Ryan?	18	A Yes.
19	A She's also a deputy division administrator. Her	19	Q And have you -- prior to taking over your current
20	responsibility is fish and wildlife.	20	role as the Director of Wisconsin State Parks, have
21	Q So Ms. Ryan and Ms. Brusoe are both at the same	21	you worked with Ms. Brusoe?
22	level?	22	A Yes.
23	A Yes.	23	Q And in what sense?
24	Q And -- but you only report to Ms. Brusoe?	24	A When I was a district supervisor.
25	A Yes.	25	Q Okay. So when you were the southwest district
	Page 20		Page 21
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	supervisor?	2	Lake?
3	A Yes.	3	A Yes.
4	Q And when you were the southwest district supervisor,	4	Q And who is Todd Ames?
5	which would have been from 2019 to 2021 I believe,	5	A He's the prior deputy secretary.
6	how did you -- what was your role vis-?-vis	6	Q I see. So Todd Ames used to have Sarah Barry's job?
7	Ms. Brusoe?	7	A Yes.
8	A Through usual meetings.	8	Q And when did that switch happen? Roughly, if you
9	Q Okay. And was she your boss then, too?	9	know.
10	A Yes. She was in the, you know, higher chain, and she	10	A February.
11	was acting parks director for a short period of time,	11	Q Oh, so it's recent?
12	too.	12	A Yes.
13	Q So she was in your job for a little while?	13	Q And February of 2022?
14	A Yes.	14	A Yes, sir.
15	Q Acting, okay.	15	Q And where is Mr. Ames now?
16	And did -- had you worked with Ms. Brusoe	16	A Canoeing down a river.
17	prior to 2019?	17	Q Is he retired?
18	A Yes.	18	A Yes.
19	Q And in what capacity?	19	Q I see. Do you know which river?
20	A She was a -- a planner for the Department of Natural	20	A Wisconsin, probably.
21	Resources.	21	Q Just kidding.
22	Q And how did you work with her when she was a planner?	22	All right. All right. I believe you said
23	A With the Sauk Prairie State Park Recreation Area	23	Ms. Vanlanduyt -- I'm going to mess up her name
24	master plan.	24	again. Can you say it one more time?
25	Q Oh, okay. And this was back when you were at Devil's	25	A Vanlanduyt.

1 STEVEN SCHMELZER  
 2 Q Vanlanduyt -- reports to you; is that correct?  
 3 A Yes.  
 4 Q And how long have you worked with Ms. Vanlanduyt?  
 5 A 10 years.  
 6 Q Okay. And why has it been that long? Like, how did  
 7 you work together over the 10 years?  
 8 A She was a partnership and communications section  
 9 supervisor, so working with her on different  
 10 partnerships and agreements. And prior to that, she  
 11 was also the capital development -- capital  
 12 development coordinator for the state, so she  
 13 administered all the development projects across the  
 14 state.  
 15 Q And what does that mean? What is a development  
 16 project?  
 17 A Fixing of buildings, new buildings, roads, trails.  
 18 Q So spending money at the parks?  
 19 A Projects, yes.  
 20 Q I see. Have you had a good working relationship with  
 21 her?  
 22 A Yes.  
 23 Q And so you worked with her when she was a  
 24 communications and partnership section supervisor,  
 25 presumably both in your role while working at Devil's

1 STEVEN SCHMELZER  
 2 Lake State Park and as the southwest state park  
 3 supervisor?  
 4 A Yes.  
 5 Q Do you socialize with Ms. Vanlanduyt?  
 6 A No.  
 7 Q What about Ms. Brusoe?  
 8 A No.  
 9 Q So Ms. Vanlanduyt's communications and partnership  
 10 section supervisor job. Could you describe generally  
 11 what that entails?  
 12 A Communications and working on partnerships.  
 13 Q Is that only with friends groups?  
 14 A With -- for the whole program?  
 15 Q Well, I guess, could you just explain in more detail?  
 16 A She works with our office of communications, also  
 17 providing news releases, meeting with the media.  
 18 Q I see. So it's sort of a -- both a public relations  
 19 job and a job that involves interfacing with the  
 20 friends groups and other partners --  
 21 A Yes.  
 22 Q -- to the parks?  
 23 MS. CARSON: Just wait until he finishes.  
 24 MR. POTTS: Sorry. You got to let me  
 25 finish.

1 STEVEN SCHMELZER  
 2 MS. CARSON: You're doing really good.  
 3 MR. POTTS: It's okay. It's really  
 4 common.  
 5 BY MR. POTTS:  
 6 Q So in your role as Director of Wisconsin State Parks,  
 7 do you need Ms. Brusoe -- Brusoe's approval to take  
 8 action?  
 9 MS. CARSON: Objection. Vague.  
 10 MR. POTTS: I guess let me restate that.  
 11 BY MR. POTTS:  
 12 Q When did you need Ms. Brusoe's approval to take  
 13 actions in your role as a Director of State Parks?  
 14 A I'm not understanding when you say take actions.  
 15 Q I guess I'm just trying to understand when you need  
 16 to run something by Ms. Brusoe and get her approval  
 17 and when you don't in your current role?  
 18 A I would say a lot of actions we meet -- we meet  
 19 weekly and talk, you know, throughout the week. So  
 20 anything that's of, you know, bigger significance or  
 21 potential, you know, larger issue, I'll talk with her  
 22 about.  
 23 Q So you meet weekly, sort of go through the projects  
 24 and things you're working on --  
 25 A Yes.

1 STEVEN SCHMELZER  
 2 Q -- that are of note? Now you can answer.  
 3 A Yes.  
 4 Q Is Ms. Vanlanduyt in those meetings?  
 5 A No.  
 6 Q So these are typically one-on-one weekly meetings?  
 7 A Yes.  
 8 Q And do you have similar meetings with your section  
 9 supervisors?  
 10 A Yes.  
 11 Q And are those generally weekly?  
 12 A Yes.  
 13 Q How is your working relationship with Ms. Brusoe?  
 14 A Good.  
 15 Q You all get along pretty well?  
 16 A Yes.  
 17 Q And this same question with Ms. Vanlanduyt?  
 18 A Good.  
 19 Q As the director of -- well, let me ask you -- let's  
 20 back up to when you were the southwest section  
 21 supervisor. Did I get that right?  
 22 A District Park Supervisor.  
 23 Q Sorry, District Park Supervisor. Did you have a role  
 24 in relation to the Blue Mound State Park master  
 25 planning process?

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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2 A	Very little.	2	one or more state parks?
3 Q	Okay. And what was your role, even though it was 4 very little?	3 A	Yes.
5 A	Kevin Swenson was the park manager, and he was the 6 lead for the master plan, and -- and he reported to 7 Kathy Grunzwell (phonetic) as she was the supervisor 8 for that area, and my role consisted of basically 9 they would just provide me an update of -- of where 10 we were in the process.	4 Q	And I'm just trying to understand your general 5 understanding of what a friends group is and what 6 they do, et cetera.
11 Q	Okay. So you didn't personally have any input into 12 what went in the plan?	7 A	They exist to help the properties.
13 A	No.	8 Q	And from a practical perspective, what does that 9 mean? Like, what are most of them doing?
14 Q	And in your current role, do you have any input in 15 what goes into state park master plans?	10 A	Raising funds, volunteering, sponsoring events.
16 A	Yes.	11 Q	And when they raise -- when one of these friends 12 groups raise money, who decides -- well, let me back up.
17 Q	But you took over your current role after the Blue 18 Mound master plan had been completed; is that 19 correct?	14	If a friends group raises money, that 15 money has to go to the park; is that correct?
20 A	Yes.	16 A	Yes. It's -- it's defined in the friends agreement.
21 Q	What is a friends group?	17 Q	Okay. And then I guess I'm trying to understand what 18 the money is spent on at the park. Who decides how 19 that money will be used?
22 A	Are you referring to a friends group that has a 23 relationship with a specific property?	20 A	Usually you work with the park superintendent and 21 then with the friends group.
24 Q	I guess just are you generally aware that there are 25 friends groups in Wisconsin that are associated with	22 Q	Okay. So does the friends group have some say over 23 how the funds are used at the park?
		24 A	To some extent.
		25 Q	And, I guess, could you just describe generally what
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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	that process would be? Is it a negotiation between 3 the park supervisor and a friends group?	2	friends group?
4 A	Yes.	3 A	Yes. It's a match grant program.
5 Q	And then do you -- do you approve the final 6 expenditure decisions for the park for friends 7 groups?	4 Q	I see.
8 A	Right now?	5 A	And many friends group projects utilize those.
9 Q	Yeah.	6 Q	Okay. And so the -- a friends group raises money to 7 help the park, and then in consultation with the park 8 supervisor helps to determine what those funds could 9 be used for to improve the park; is that fair?
10 A	No.	10 A	Yes.
11 Q	Is that the development supervisor role that we 12 discussed earlier?	11 Q	Do you know roughly how many friends groups there are 12 like this in Wisconsin?
13 A	It would depend upon the -- the level of -- of 14 development. If it's a picnic table, no.	13 A	Approximately 92.
15 Q	Okay.	14 Q	Do you know of those, again roughly 92 friends 15 groups, which -- which have raised the most money for 16 their particular parks?
16 A	But --	17 A	I don't have that total.
17 Q	And what's the level that would generally involve 18 management?	18 Q	Do you have a -- I mean, is -- where in the 92, 19 roughly, do you think the Friends of Blue Mound --
19 A	There's grants that are available to friends groups, 20 so that involves an approval from both the district 21 supervisor and the development coordinator.	20 A	Oh, they're towards the top.
22 Q	And -- but those are -- those are external -- or 23 those are DNR grants?	21 Q	Okay. So they're one of the friends groups that 22 raises the most money for their particular park?
24 A	Internal grants, yes.	23 A	Yes.
25 Q	That would go in addition to the funding from the	24 Q	Not necessarily number one understanding.
		25 A	Yes, yes.

1 STEVEN SCHMELZER  
 2 Q Okay. Does Devil's Lake have a friends group?  
 3 A Yes.  
 4 Q And how -- presumably you worked quite a bit with  
   5 that friends group when you were in your role --  
   6 roles at Devil's Lake; is that correct?  
 7 A Yes.  
 8 Q And how was your working relationship with that  
   9 friends group?  
 10 A Good.  
 11 Q And has that friends group raised a significant  
   12 amount of money for Devil's Lake?  
 13 A Yes.  
 14 Q In your relationship working with that friends group,  
   15 has the friends group ever disagreed with the DNR  
   16 about the uses of Devil's Lake State Park?  
 17 A You're talking about the Friends of Devil's Lake?  
 18 Q Yes.  
 19 A So can you state the question again, please?  
 20           MR. POTTS: Sorry. Can you read it back?  
 21           (RECORD READ.)  
 22           THE WITNESS: There was always discussions  
   23 about it.  
 24 BY MR. POTTS:  
 25 Q I mean, were there any -- ever any significant

1 STEVEN SCHMELZER  
 2 disputes?  
 3 A No.  
 4 Q Is there a snowmobile trail through Devil's Lake  
   5 State Park?  
 6 A Yes.  
 7 Q And where does that trail go, roughly?  
 8 A Around Devil's Lake.  
 9 Q Is it on existing roads, or is it in an individual  
   10 trail just for snowmobiles?  
 11 A Both.  
 12 Q Okay. And how long has that snowmobile trail been  
   13 there, to your knowledge?  
 14 A More than 30 years.  
 15 Q Okay. Before your time?  
 16 A Yes.  
 17 Q And were you involved in the construction of the new  
   18 snowmobile trail at the Sauk Prairie Recreation Area?  
 19 A A new trail?  
 20 Q Correct.  
 21 A The trail was moved slightly. I wouldn't classify it  
   22 as a new trail.  
 23 Q Okay. Well, were you involved in the snowmobile  
   24 trail at the Sauk Prairie Recreation Area?  
 25 A Yes.

1 STEVEN SCHMELZER  
 2 Q In what -- in what way?  
 3 A The local snowmobile clubs and -- and volunteers  
   4 would talk with me.  
 5 Q Okay. And what is your relationship with the -- or  
   6 what has your relationship been with the snowmobile  
   7 clubs over the years?  
 8           MS. CARSON: Objection. Vague.  
 9           Go ahead and answer.  
 10          THE WITNESS: Specific to Devil's Lake?  
 11 BY MR. POTTS:  
 12 Q Just in general. How often do you talk to -- or have  
   13 you had conversations with snowmobile clubs over the  
   14 years?  
 15 A Typically a couple times per year, unless -- unless  
   16 there was a -- something needed more, you know,  
   17 discussion.  
 18 Q Are you a member of any snowmobile clubs?  
 19 A No.  
 20 Q Do you ride snowmobiles?  
 21 A I have.  
 22 Q Do you own a snowmobile?  
 23 A No.  
 24 Q And how often do you ride snowmobiles?  
 25 A Very rarely. The last time was probably eight to 10

1 STEVEN SCHMELZER  
 2 years ago when I was grooming ski trails.  
 3 Q And does the department own any snowmobile trails  
   4 for -- that you know of? I mean, sorry, not trails.  
 5           Does the department own any snowmobiles  
   6 that you know of?  
 7 A Yes.  
 8 Q And what are they used for?  
 9 A Primarily grooming of ski trails.  
 10 Q Okay. And you mean cross-country ski trails?  
 11 A Yes.  
 12 Q What -- again going back to your role -- well, strike  
   13 that.  
 14           It sounds like you have had significant  
   15 experience working with friends groups; is that fair  
   16 to say?  
 17 A Yes.  
 18 Q And how does the DNR supervise friends group  
   19 activities?  
 20 A I don't know if they would qualify as supervision.  
   21 You work with your friends groups, you know, on  
   22 events and volunteers, so I don't know if that's --  
   23 would be supervision. It's more of a work together.  
 24 Q Does the DNR ever serve as a board member on any of  
   25 the friends groups?

	Page 34		Page 35
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2 A	No. They're not allowed to.	2 Q	Do you know any of the -- do you know personally any
3 Q	By not allowed to, do you mean -- what do you mean by	3	of the Blue Mound's friend group board members?
4	that? Who doesn't allow you?	4 A	Is Karl Heil on the -- then it would be yes.
5 A	No, we don't.	5 Q	Yes, Karl Heil's on the board.
6 Q	Okay. And is it your understanding that it's not	6	Okay. And how do you know Karl?
7	allowed by department policy?	7 A	Working with him while he was the -- at Blue Mound
8 A	Yes.	8	State Park.
9 Q	And who do you -- is it common for department	9 Q	Okay. And was this when -- in your role as
10	employees to attend friends group board meetings?	10	southwest --
11 A	Yes.	11 A	No. I was never his supervisor.
12 Q	How often does that occur in your experience?	12 Q	Oh, I see. So when you were working at Devil's Lake,
13 A	Fairly often.	13	he had a similar role at Blue Mound State Park?
14 Q	And when you were at Devil's Lake, did you attend the	14 A	Yes.
15	Devil's Lake friends group board meetings?	15 Q	And how was your working relationship with Karl?
16 A	Yes.	16 A	Fine.
17 Q	And roughly how often? Every board meeting? Every	17 Q	Did you ever have any issues with him when he was the
18	other board meeting? A few a year?	18	head of Blue Mound State Park?
19 A	Most board meetings.	19	MS. CARSON: Objection. Vague.
20 Q	Okay. But the DNR again doesn't have a vote on any	20	BY MR. POTTS:
21	friends group boards that you're aware of?	21 Q	Was your -- did you have a good working relationship
22 A	Not that I'm aware of.	22	when he was head of Blue Mound State Park?
23 Q	Have you ever attended a Blue Mound friends group	23 A	Yes.
24	board meeting?	24 Q	Do you know why Mr. Heil is no longer the head of
25 A	No.	25	Blue Mound State Park?
	Page 36		Page 37
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2 A	No.	2 Q	Have you ever spoken with him about Blue Mound State
3 Q	But when you were the southwest district -- southwest	3	Park?
4	division supervisor -- did I get that right this	4 A	No.
5	time? Closer?	5 Q	Are -- do you have a relationship with Mr.
6	Did you supervise -- did you -- was	6	Speerschneider outside of your work at the
7	Mr. Heil still in his position?	7	department?
8 A	No. He had left.	8 A	No.
9 Q	Other than Mr. Heil, do you know any other board	9	MR. POTTS: So I'm going to refer you to
10	members of Blue Mound's friends group?	10	what has already been marked Deposition 4.
11 A	I met with Willi and Greg.	11	MS. CARSON: Probably easier just to hand
12 Q	But other than the professional meetings --	12	him the book.
13 A	No.	13	MR. POTTS: Yeah, right. And he can just
14	MS. CARSON: Just wait.	14	flip to whatever one he wants, and you can -- while
15	MR. POTTS: Sorry.	15	he's -- why don't we take a couple-minute break.
16	BY MR. POTTS:	16	(Break taken from 9:45 a.m. to 9:49 a.m.)
17 Q	Okay. And we'll come back to the meeting. Actually,	17	BY MR. POTTS:
18	let me ask you:	18 Q	Okay. Looking at Deposition Exhibit 4, do you
19	Was that the first time you had met Willi	19	recognize this chain of e-mails?
20	and Greg, that meeting on August 5th?	20 A	Yes.
21 A	Yes.	21 Q	And could you generally describe what's going on in
22 Q	Have you ever spoken with Timm Speerschneider?	22	the e-mails?
23 A	Yes.	23 A	Open records request.
24 Q	And what about?	24 Q	On it looks like the first e-mail where you are
25 A	Snowmobile trails.	25	looped in is on the bottom of the second page for

	Page 38		Page 39
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	Ms. Durrant on August 19, 2021 at 10:33. Do you see	2	released. Let me know if you have any questions.
3	that e-mail?	3	In the documents you uploaded to the
4 A	Yes.	4	folder, were there -- how did you go about searching
5 Q	And Ms. Durrant is the public records -- is in charge	5	for those documents?
6	of this public records request and collecting the	6 A	I think I used the terms that were in the request.
7	documents; is that a fair assessment of her position?	7 Q	And you mean the keyword Blue Mound friends group,
8 A	Yes.	8	friends agreement, those terms?
9 Q	Have you worked -- had you worked with Ms. Durrant	9 A	Yes.
10	before this e-mail?	10 Q	And did you just effectively go to your e-mail box
11 A	I don't believe so.	11	and search for those terms?
12 Q	Okay. And Ms. Durrant in the e-mail on August 19th	12 A	Yes.
13	is e-mailing a copy of the friends groups' e-mails,	13 Q	And then after you went to your e-mail box and
14	and she says in bold, Missy and Steven, could you let	14	searched for those terms, you presumably found some
15	me know if you have any e-mail records for this	15	documents that you thought were potentially
16	request.	16	responsive and uploaded those documents?
17	And then Ms. Vanlanduyt responded, again	17 A	Yes.
18	with you on the chain, I do have e-mails -- I'm	18 Q	Were there any documents that you did not upload that
19	sorry -- I do have e-mail records of this. And then	19	had those terms in them?
20	the next e-mail is Emily saying, could you please add	20 A	Not that I'm aware of.
21	those e-mails to the folder below. Again, you're	21 Q	So you didn't purposefully keep any documents --
22	copied. And then on August 20th you responded,	22	documents out?
23	Emily, I uploaded a number of items to the folder.	23 A	No.
24	Some of the items include e-mails from our department	24 Q	Okay. Did you review what Ms. Vanlanduyt uploaded to
25	legal staff so I'm guessing those would not be	25	the folder?
	Page 40		Page 41
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2 A	No, I don't -- I don't believe I did.	2 Q	Let's see. Did you attend any training regarding
3 Q	Okay. So you effectively got this e-mail from	3	responding to public records requests?
4	Ms. Durrant, searched your e-mail box for the words,	4 A	Yes.
5	and then put all the documents that had those words	5 Q	And could you describe how often and what that
6	in this folder; is that a fair summary of what	6	training entailed?
7	occurred?	7 A	I believe we do it yearly, just basically go over
8 A	Yes.	8	what -- what the procedure you should do.
9 Q	Did you have any additional role with regards to this	9 Q	And did you follow the procedure in this case?
10	particular public records request?	10 A	As far as I know.
11 A	No.	11 Q	And what is the general procedure that they train you
12 Q	Did you re-review all the documents that you uploaded	12	to follow?
13	prior to uploading them?	13 A	When records are asked for, we provide -- provide the
14 A	Yes, I probably looked at them.	14	records.
15 Q	But again, you included all the documents you found?	15 Q	That is -- anything else in the training?
16 A	Yes.	16 A	I mean, I can't quote the whole training, but that --
17 Q	Did you talk to Ms. Vanlanduyt about this document	17	in essence that's what it is.
18	request back in August of 2021?	18 Q	Okay. So even if it says draft on it, you're
19 A	Probably.	19	supposed to provide the record?
20 Q	Do you remember what you would have talked about?	20 A	The -- I mean, what -- I think the -- there's some
21 A	To make sure that -- that we were uploading the	21	things that aren't included with that.
22	documents.	22 Q	Like what?
23 Q	But did you ever compare the documents you uploaded	23 A	If I remember correctly, if it's like, you know,
24	to those that she uploaded?	24	notes that you take or a draft that's, you know,
25 A	No.	25	still in progress, I believe.

1 STEVEN SCHMELZER  
 2 Q But is it your understanding that that's your  
 3 determination to make or other people at the  
 4 department who are in the public records section?  
 5 A Both, I believe.  
 6 Q Okay. So do you remember if here there were any  
 7 documents that were notes or drafts that you did not  
 8 include in the folder?  
 9 A I don't believe so.  
 10 Q Same question with privileged and confidential  
 11 information. It looks like based on the e-mail you  
 12 did put some e-mails with -- or documents that had  
 13 lawyers on them in the folder.  
 14 Is it fair to say that even if it had  
 15 lawyers on them, you put them in the folder?  
 16 A Yes.  
 17 Q Did you have any discussions with Ms. Durrant other  
 18 than this e-mail chain about what should or shouldn't  
 19 be produced?  
 20 A I don't think so.  
 21 Q You never had any phone calls or other meetings with  
 22 her about this request?  
 23 A Not that I recall.  
 24 MR. POTTS: Can I have Exhibit I?  
 25 Although is this already an exhibit?

1 STEVEN SCHMELZER  
 2 operating agreements with friends groups since 2010,  
 3 and then it -- she sent that e-mail on Wednesday,  
 4 September 1st at 3:56, and you responded a couple  
 5 days later on Friday saying, Emily, I have two  
 6 records that would be part of this.  
 7 Do you see that?  
 8 A Yes.  
 9 Q And what process did you use to search for documents  
 10 in this -- with this public records request?  
 11 A Probably the same way I did the other one.  
 12 Q Okay. In this case, though, there's not sort of  
 13 terms listed. Would you have just searched for  
 14 termination, or do you remember?  
 15 A That's -- that's what I likely did.  
 16 Q Okay. And you said, I have two records that would be  
 17 part of this; and then Ms. Durrant responded, could  
 18 you please place those records into the following  
 19 folder; and then you say, Emily -- and this is on  
 20 September 3rd -- I added an item to the folder. The  
 21 other was labeled as confidential notes so I didn't  
 22 include that one.  
 23 Do you see that?  
 24 A Yes.  
 25 Q Did you ever talk to Ms. Durrant about whether or not

1 STEVEN SCHMELZER  
 2 MR. FONSECA-ANGEL: I don't think so,  
 3 not --  
 4 MR. POTTS: Oh, not with the last two,  
 5 yeah. Yeah, we'd like to introduce this as  
 6 Exhibit 58.  
 7 (Exhibit 58 marked for identification.)  
 8 BY MR. POTTS:  
 9 Q I'll walk you through the exhibit, sort of starting  
 10 with the back. It looks -- again, the first e-mail  
 11 in the chain is a request from Mr. Hubbuch, who's a  
 12 madison.com reporter to the DNR, and then it looks  
 13 like the first e-mail where you are copied is on  
 14 September 1, 2021, which is on page 4 at the bottom,  
 15 and in this case Ms. Bernaski -- who is Ms. Bernaski?  
 16 A She's a department employee.  
 17 Q I know that. I mean, like, what's her role, do you  
 18 know?  
 19 A She's an LTE program assistant within the Bureau of  
 20 Parks and Recreation.  
 21 Q Okay. And so she is it looks like passing on an --  
 22 the e-mail from Ms. Durrant with the public records  
 23 request, and it says the following open records  
 24 request was submitted for records, and then there's a  
 25 paren or a quote, referencing termination of

1 STEVEN SCHMELZER  
 2 those confidential notes should be provided?  
 3 A I don't recall if I did or not.  
 4 Q Did you ever provide those confidential notes to  
 5 Ms. Durrant?  
 6 A It says here that I didn't include that one, so I'm  
 7 guessing I didn't.  
 8 Q Okay. But you don't remember?  
 9 A No.  
 10 Q Do you remember what was in those confidential notes?  
 11 MS. CARSON: I'm going to object to the  
 12 extent you're asking him to summarize something that  
 13 might be an attorney-client privileged  
 14 communication.  
 15 Other than that, you can answer.  
 16 THE WITNESS: Probably the meeting notes.  
 17 BY MR. POTTS:  
 18 Q You mean the -- did you take notes during the  
 19 August 5th meeting? I guess, what meeting notes are  
 20 you talking about, or could you describe what they  
 21 would be?  
 22 A The -- like the draft topics to cover.  
 23 (Discussion held off the record.)  
 24 (Exhibit 59 marked for identification.)  
 25 BY MR. POTTS:

1 STEVEN SCHMELZER  
 2 Q All right. I'd like to hand you what we will mark as  
 3 Exhibit 59. I'm trying to refresh your recollection  
 4 here.

5 This is a document that you can assume,  
 6 take my word for, was produced by Ms. Durrant in  
 7 response to Mr. Hubbuch's request. Is this the  
 8 confidential notes you're discussing that you didn't  
 9 include?

10 A Yes, I believe that's what it is.

11 Q So I'm -- I guess I'm confused. So Exhibit 59 was  
 12 produced by Ms. Durrant in response to this records  
 13 request.

14 Did you put Exhibit 59 in the folder?

15 A I'd have to look and see. Maybe -- I'd have to look  
 16 and see. I guess I don't know. You know, based upon  
 17 the -- this e-mail here, this may have been the one  
 18 that I left out, but maybe Missy sent this one in.

19 Q I'm going to hand you the notes as Exhibit 7 on it.  
 20 It's actually Deposition Exhibit 8. Oh, yeah, there  
 21 you go.

22 And on page -- could you look through  
 23 Exhibit 8 and see if that refreshes your  
 24 recollection regarding what you added to the folder  
 25 and what you didn't add to the folder?

1 STEVEN SCHMELZER  
 2 A Okay.  
 3 Q And after -- after reviewing that, do you remember  
 4 now what you added to the folder and what you didn't  
 5 add to the folder?

6 A Yeah. It was likely the -- the draft briefing  
 7 sheet that was being worked on, and then e-mails that  
 8 went along -- went along with that.

9 Q You mean the briefing sheet that has redlines in it,  
 10 track changes?

11 A Yeah, there is a couple different ones in here. It  
 12 was likely the e-mails that went along with that and  
 13 that.

14 Q Okay. And to just cut to the chase, are there any  
 15 other confidential notes other than the ones you see  
 16 in Exhibit 8 that you're aware of that you have in  
 17 your possession that weren't produced?

18 A No.

19 Q Okay. So you believe Exhibit 8 includes now the  
 20 confidential notes that you decided not to include at  
 21 the time?

22 A Yes. The only ones that I believe are in question  
 23 are the ones you have here.

24 MS. CARSON: Just -- can you refer to page  
 25 numbers when you're talking about that?

1 STEVEN SCHMELZER  
 2 THE WITNESS: DNR 009531.

3 BY MR. POTTS:

4 Q Okay. And I guess I'm confused. So are you saying  
 5 the confidential notes are DNR -9531 and -9532, or  
 6 are the -- the ones that have the track changes in  
 7 them, -9536?

8 A -9531.

9 Q Okay. So why -- what about -9531 do you believe is  
 10 confidential?

11 A They were Missy's notes.

12 Q Is Missy a department employee?

13 A Yes.

14 Q And are department employee notes confidential?

15 A I guess it would depend upon what -- what level  
 16 they -- I mean, I wasn't sure. I think that's when I  
 17 asked Emily that, I think that she had indicated that  
 18 maybe you wouldn't have to include those. So I  
 19 wasn't sure about that, but obviously maybe Missy  
 20 added these and they've been released so you have  
 21 them. That would have been what it was referring to.

22 Q Well, this is in response to Chris Hubbuch's request,  
 23 not ours.

24 A Okay. Or Chris's request, yes.

25 Q I guess on page -- on the e-mail on page 2 of

1 STEVEN SCHMELZER  
 2 Exhibit 58, the new one I just gave you --  
 3 A This one?  
 4 Q This one.

5 MS. CARSON: Does that have an exhibit  
 6 sticker on?

7 THE REPORTER: I have them over here.

8 MS. CARSON: Could we have the witness  
 9 look at the one with the exhibit sticker? I just  
 10 want to be sure.

11 MR. POTTS: Yeah. Yeah, that's fine.

12 BY MR. POTTS:

13 Q So on page 2, Emily says, and I believe it's in  
 14 summons to your e-mail, attaching the one document  
 15 and not attaching the confidential notes, she says  
 16 the attached e-mail is the responsive record I got  
 17 from Steve for the records requesting on termination  
 18 agreements with friends group, however since the  
 19 attached document is labeled draft I'm wondering if  
 20 it was actually used for the meeting on 8-5-21.  
 21 Since we do not release draft documents as records, I  
 22 want to confirm it was used for the meeting or if  
 23 there is a final version available.

24 So at least it looks like from this  
 25 e-mail chain that what you attached -- what you

	Page 50		Page 51
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	added to the folder was indeed the -- going back to	2	The only thing I would have had would have been this.
3	the page numbers we were just referring to, -9531	3	Okay. Did you ever talk to Ms. Durrant about
4	and -2, because she's asking questions about it.	4	whether -- other than this e-mail chain, about
5	A Yes.	5	whether to include -- I'm sorry. Strike that.
6	Q Okay. So the confidential notes must have been	6	Did you ever talk to Ms. Durrant other
7	something else I guess is my point?	7	than this e-mail chain about whether the department
8	A No, it was the same thing. She had -- she had the	8	should produce -531 and -532, the agenda with the
9	document.	9	notes?
10	Q No. I guess --	10	A I don't think I did. I think there was an e-mail
11	A There was no other notes.	11	there, but that -- I don't think I talked with her
12	Q Okay. Well, it's -- then I'm confused because in	12	via telephone. Not that I recall.
13	your original e-mail on September 3, 2021 you say,	13	Q Okay. Did -- did Missy to your knowledge upload any
14	Emily, I added an item to the folder, which obviously	14	documents in response to this request?
15	she got. The other was labeled as confidential notes	15	A I'm guessing she did.
16	so I didn't include that one. It sounds like you're	16	Q But you don't know?
17	saying you didn't include -3531 or -532, yet she's	17	A I didn't -- I didn't look to see which documents she
18	talking about -531 and -532 in the next e-mail as	18	included.
19	being included in the folder, so that's why I'm	19	Q Okay. All right. Going back to Exhibit 58, I
20	confused.	20	believe the one -- I'm sorry. Sorry.
21	Do you -- do you -- were there any other	21	Exhibit 59, this is an e-mail on August 4th
22	confidential notes?	22	at 10:32 a.m. between you and Ms. Vanlanduyt; is that
23	A I have no other notes.	23	correct?
24	Q So what were the confidential notes that you didn't	24	A Yes.
25	include?	25	MS. CARSON: Page 1 of Exhibit 59?
	Page 52		Page 53
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	MR. POTTS: Correct, page 1.	2	Q But obviously -- you mean before the meeting, the day
3	BY MR. POTTS:	3	of the meeting?
4	Q And Ms. Vanlanduyt is e-mailing you and she says,	4	A Yeah.
5	here is what I have. I asked Willi for the list of	5	Q This was obviously before that, so she sent you this
6	people, and we'll get to that in a minute; and then	6	on 8-4-2021.
7	it says in the last paragraph, here are my notes.	7	Did you direct her to put together an
8	Let me know if you have edits. Otherwise I'll tweak	8	agenda for the meeting?
9	slightly, but we can meet at Blue Mound at noon or	9	A I probably said -- I probably had said, you know,
10	meet over lunch somewhere. And then she has attached	10	if -- if we have some talking points or some notes
11	the notes that we've been discussing.	11	for the meeting, we likely probably -- I probably had
12	Do you know how -- or do you know why	12	her do that.
13	Missy prepared these notes?	13	Q Okay. And did you -- before you saw this draft, had
14	A To help guide the discussion.	14	you already talked through these points with her?
15	Q Did you all have conversations about what would be	15	A We may have talked about them. I can't say for
16	said at this meeting prior to the meeting?	16	certain that we went through all these points.
17	A Yes, we probably did.	17	Q Okay. But base -- so it sounds to me like Missy is
18	Q And I guess I'm trying to understand, did you have	18	primarily responsible for putting together these
19	any involvement in what Missy put in these notes?	19	notes and agenda?
20	A We likely talked about it.	20	A Yes.
21	Q Okay. And that's kind of what I'm trying to	21	Q All right. When you met prior to the August 5th
22	understand. Did you and Missy sort of have a meeting	22	meeting, did you go over these notes again?
23	to go through what you would talk about and these are	23	A On that day?
24	her notes of, you know, your plan for the meeting?	24	Q Correct.
25	A We -- we met briefly before the meeting.	25	A Yes.

	Page 54		Page 55
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	Q And do these notes fairly summarize the -- what went	2	meeting on 8-5-21. Since we do not release draft
3	on at the meeting?	3	documents as records, I wanted to confirm it was used
4	A Yes. This was a guideline for them.	4	for the meeting or if there is a final version
5	Q You mean for the meeting?	5	available; and then Ms. Vanlanduyt responded, we used
6	A For the meeting.	6	it to review the notes ahead of the meeting but did
7	Q And these notes were never -- I mean, there was never	7	not use it during the meeting and did not hand it
8	a formal agenda given out at the meeting; is that	8	out.
9	correct?	9	I believe you just testified that at least
10	A I believe so, yes.	10	you used the notes during the meeting; is that
11	Q Did you have a copy of these notes with you at the	11	correct?
12	meeting?	12	A I likely looked at them as I was talking with Willi
13	A Yes.	13	and Greg.
14	Q And did you refer to the notes during the meeting?	14	Q Did you respond or -- to Ms. Vanlanduyt's e-mail or
15	A Yes.	15	Ms. Durrant's e-mail in any way about this document?
16	Q When did you first learn of -- oh, I'm sorry. Let me	16	MS. CARSON: When you say this document,
17	go back to Exhibit 58. Then we can move on from this	17	you mean Exhibit 58 or the document that --
18	chain.	18	MR. POTTS: Yeah.
19	On -- in the e-mail from Missy on page --	19	MS. CARSON: -- that Emily is referring
20	at the bottom of page 1 of Exhibit 58, on Wednesday,	20	to?
21	September 8th in response to Ms. Durrant asking	21	MR. POTTS: That's a good point.
22	questions about the draft agenda in Exhibit 59 we	22	BY MR. POTTS:
23	were just discussing, Missy -- I'm sorry -- Emily	23	Q I guess Emily asked, you know, how did you use this
24	asked Missy, since the document is labeled as a	24	document, and Missy responded, and I'm wondering if
25	draft, I'm wondering if it was actually used for the	25	you ever responded to Ms. Durrant about how you used
	Page 56		Page 57
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	the document during the meeting?	2	Q Did you ever discuss the Blue Mound petition with
3	A I don't -- I don't think I did. Don't see anything	3	Timm Speerschneider?
4	here.	4	A No.
5	Q Okay. And you don't remember any other e-mail chains	5	Q Did you ever discuss it with anyone from a snowmobile
6	about this?	6	group?
7	A No.	7	A No, not that I'm aware of.
8	Q When did you first learn -- and we can be finished	8	Q Okay. On I believe Exhibit 47.
9	with that one.	9	A Uh-huh.
10	A Okay.	10	Q Yes. These are the defendants' responses to
11	Q When did you first learn that the Friends of Blue	11	plaintiff's interrogatories, and I have some
12	Mound State Park filed a petition for judicial review	12	questions about a couple of the responses here.
13	challenging the master plan for the Blue Mound State	13	It looks like -- and again, this is in
14	Park?	14	response to request number one, which states, have
15	A I believe it would have been in June.	15	any communications regarding the termination of the
16	Q In June of '21?	16	friends group grant between the DNR and Blue Mound
17	A Yes.	17	State Park occurred between you and anyone else
18	Q And other than your attorneys, did you discuss the	18	and/or between you and your employees; and there's a
19	petition for judicial review with anyone else back	19	list of dates here where there were potential -- or
20	when it was first filed?	20	where there were discussions that are responsive to
21	A Likely Kevin Swenson.	21	this request, and I want to go -- ask a couple
22	Q And Kevin is the head of Blue Mound State Park?	22	questions about a few of them.
23	A Yes.	23	On August 5, 2021 it says Missy and you
24	Q Anyone else?	24	met, and then in parentheses, stood outside the
25	A Not that I'm aware of.	25	shelter for approximately 10 minutes prior to

	Page 58		Page 59
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	meeting with Mr. Van Haren and Friends of Blue Mound	2	things for the -- for the property, so we'd like to
3	State Park vice president Greg Wiegand to discuss	3	continue to have them as a friends group and continue
4	speaking points and how to approach the meeting.	4	the relationship with them.
5	They agreed to discuss the friends group agreement,	5	Q Did you during the August 5th meeting tell the
6	share their support for all friends groups, share	6	friends group that they would have to drop their
7	their appreciation of the friends group, and relay	7	lawsuit or the department would be initiating
8	that they would like the partnership to continue	8	termination of the existing friends group agreement?
9	into the future.	9	A We -- we talked about that it was -- it was contrary
10	Did you have any role in drafting that	10	to the agreement, the friends group friends'
11	response?	11	agreement that they signed, or signed off on.
12	A When you say role, I guess I'm not understanding when	12	Q And I guess could you just answer the exact question
13	you say -- I mean, obviously we provided the comment	13	I asked?
14	that we had met that day, so --	14	MR. POTTS: And read it back, please.
15	Q I mean, I guess did you review this specific response	15	(RECORD READ.)
16	language?	16	THE WITNESS: We talked about that, yes.
17	A Oh, yes. Yes.	17	BY MR. POTTS:
18	Q And sign off on it?	18	Q And you say that the -- it was the department's
19	A Yes.	19	position that the friends group was violating the
20	Q And it says at the end of that response, as part of	20	friends group amendment because it had brought the
21	the meeting you wanted to relay that they would like	21	lawsuit; is that correct?
22	the partnership to continue into the future.	22	A Yes.
23	What did you mean by that?	23	Q Have you reviewed the Blue Mound's friends group
24	A The friends of Blue Mound was a -- you know, is a	24	agreement?
25	good friends group. They've done a lot of great	25	A Yes.
	Page 60		Page 61
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	Q Did you review it prior to the meeting on August 5th?	2	determination that this was a violation of the
3	A Probably I think I did, but I can't say for certain.	3	friends group agreement?
4	Q And who at the department determines whether or not a	4	A Yes.
5	friends group has violated a friends group agreement?	5	Q And would that have been, again without telling me it
6	A Staff, both -- probably the property -- property	6	was -- do you know if it was Missy who made that
7	staffing and then maybe the -- because Missy's	7	determination?
8	section works on it, probably Missy and probably go	8	A I -- I don't know exactly who would have -- who would
9	through legal then also.	9	have done it. I'm guessing probably legal and Missy.
10	Q And did you go through all those steps prior to this	10	Q Okay. And did you ever provide the Blue Mound's
11	August 5th meeting?	11	friends group with any detailed explanation of why
12	A I don't know if specifically if we talked to legal at	12	you thought the lawsuit violated the friends group
13	that point.	13	agreement?
14	Q And if you did, I think you can tell me you talked to	14	A I think we in general talked about the -- in
15	them but not what you talked about.	15	discussion talked with Willi and Greg about the
16	A I'm guessing we -- we may have.	16	friends group were there to support the property.
17	Q And in what ways -- well, let me ask you this:	17	Q But did you ever, like, point to any specific
18	Was it you who determined that the friends	18	provisions in the agreement that you thought they
19	group lawsuit violated the agreement?	19	were violating?
20	A No, I don't -- I don't believe it was me that -- it	20	A No. We didn't -- I didn't, like, have the agreement
21	may have been brought up, you know, in a discussion,	21	and say, oh, you're in violation of this particular
22	but I didn't specifically take a look at the	22	subset of that, no.
23	agreement and then take a look at the lawsuit and	23	Q And did you ever -- I guess going back to the meeting
24	determine that.	24	notes we've been discussing and agenda in Exhibit 59,
25	Q Okay. And so you were relying on someone else's	25	do you have that? That should be this one.

1 STEVEN SCHMELZER  
 2 A Yeah.  
 3 Q On the first -- well, the first bullet point is  
 4 intro, thank you for coming; and then the second  
 5 bullet point, which is the sub bullet, says overall  
 6 agenda.  
 7 Do you see where I am?  
 8 A Yes.  
 9 Q And it says review of existing agreement, and we  
 10 talked about bullets one and two, but it says  
 11 spending friends group funds on legal fees cannot do  
 12 per agreement.  
 13 Did you discuss that during the meeting?  
 14 A We likely did.  
 15 Q Did you ever ask the friends group if they were  
 16 spending any friends group funds on legal fees?  
 17 A I don't think so. I think we maybe just talked about  
 18 it, but I don't think we said, hey, are you using  
 19 friends money. I don't think we knew.  
 20 Q But you assumed they were?  
 21 A We didn't know.  
 22 Q But you didn't ask them?  
 23 A I think we just were making the point that it was --  
 24 that in the agreement that you can -- that there was  
 25 specifically what you can spend those monies on.

1 STEVEN SCHMELZER  
 2 Q The State of Wisconsin, right. And so is -- it's  
 3 your position that the park and the DNR -- well, let  
 4 me back up.  
 5 The friends group didn't sue the property,  
 6 did they?  
 7 A They sued the department.  
 8 Q And what did they sue the department over?  
 9 A The master plan.  
 10 Q In particular, what did they sue about?  
 11 A The snowmobile trail.  
 12 Q Okay. And so it's the department's view that a  
 13 lawsuit against the department's choices of uses at  
 14 the park can never be in support of the property at  
 15 the park?  
 16 MS. CARSON: Objection. Vague. Compound.  
 17 MR. POTTS: Okay. All right. Let me ask  
 18 a different way.  
 19 BY MR. POTTS:  
 20 Q If the Department of Natural Resources determined  
 21 that it wanted to put a gun range at Blue Mound State  
 22 Park and the friends group sued the department and  
 23 said the gun range would be bad for the park, is  
 24 that -- would that be a different situation than the  
 25 situation here?

1 STEVEN SCHMELZER  
 2 Q Okay. And was that one of the reasons you thought  
 3 the lawsuit was violating the agreement?  
 4 A No. I think it was just a matter of the support, you  
 5 know, that a lawsuit I wouldn't consider to be  
 6 supporting the park.  
 7 Q Why not?  
 8 A I guess I wouldn't consider getting sued as being  
 9 support.  
 10 Q Do you -- do you agree there's a difference between  
 11 the park itself and the DNR?  
 12 A No.  
 13 Q So why not?  
 14 A It's all part of the DNR.  
 15 Q So it's your view that the park and the DNR are the  
 16 same thing?  
 17 A Are you talking specific to the property, you know,  
 18 like, oh, the lands that -- the Blue Mound or I guess  
 19 I'm not understanding.  
 20 Q I guess -- well, I'm trying to understand what your  
 21 view is. The -- the Blue Mound State Park is  
 22 property, correct?  
 23 A Right.  
 24 Q And the DNR owns that property, correct?  
 25 A State of Wisconsin, that's correct.

1 STEVEN SCHMELZER  
 2 MS. CARSON: Objection. Incomplete  
 3 hypothetical.  
 4 MR. POTTS: In your view.  
 5 MS. CARSON: Go ahead and answer, if you  
 6 can.  
 7 THE WITNESS: If the master plan had  
 8 indicated, you know, through the planning process  
 9 that that was a viable option, then -- I mean, as a  
 10 master plan process, you know, worked out, you know,  
 11 that's what the master plan process is for. And if  
 12 the friends group that was involved with the master  
 13 plan process, correct? I'm guessing. So they would  
 14 have -- they would have had an opportunity to  
 15 provide input during that time. So if -- if -- I  
 16 know there's not one in there, a gun range on there,  
 17 and it had been approved and then the friends group  
 18 decided at that point that, hey, we're not -- we're  
 19 not supporting that, that would -- and they wanted  
 20 to file a lawsuit relative to that, it would be the  
 21 same circumstance with the snowmobile trail.  
 22 BY MR. POTTS:  
 23 Q So is it possible that the friends group thinks that  
 24 it would be better for the park, the property, to not  
 25 have the snowmobile trail?

1 STEVEN SCHMELZER  
 2 A Tell me that again.  
 3 Q All right. I'll ask in a different way.  
 4 Is it possible for -- that not having the  
 5 snowmobile trail at Blue Mound State Park would be  
 6 better for the ecological viability of the park?  
 7 A It's possible, I suppose.  
 8 Q Okay. And so it's the department's position that if  
 9 the department, whatever the department decides is  
 10 good for the property, the friends group has to agree  
 11 with?  
 12 A I guess that would -- I mean, there's disagreements  
 13 on friends groups of -- of whether they think it --  
 14 you know, that might be the best idea, so they  
 15 could -- they could certainly disagree, but that's  
 16 different than filing a lawsuit I would say.  
 17 Q Why is that different?  
 18 A The -- because the plan -- I mean, the planning  
 19 process that -- you know, if it includes a planning  
 20 process, that goes through, you know, public input  
 21 and all those different processes to get that  
 22 information. And I'm guessing the friends provided  
 23 information during that time and it was determined  
 24 that -- that the snowmobile trail would go in. I  
 25 mean, that would -- that it would be moved.

1 STEVEN SCHMELZER  
 2 Q Okay.  
 3 A I mean, there's also a snowmobile trail there.  
 4 Q Well, let me ask you this:  
 5 Are you aware that the friends group's  
 6 lawsuit is challenging the planning process itself?  
 7 A Yes.  
 8 Q Okay. And so if the department did not follow the  
 9 procedures it's required to follow in the planning  
 10 process, would you say that that would be good for  
 11 the property?  
 12 A So you're asking -- say that again.  
 13 MR. POTTS: Can you read back the  
 14 question?  
 15 (RECORD READ.)  
 16 THE WITNESS: Probably not.  
 17 BY MR. POTTS:  
 18 Q Has the department to date provided notice to the  
 19 Friends of Blue Mound State Park that they intend to  
 20 terminate the agreement?  
 21 A No.  
 22 Q Why not?  
 23 A We have no intention of terminating it.  
 24 Q But back on August 5th you've already testified that  
 25 you told the Friends of Blue Mound State Park that

1 STEVEN SCHMELZER  
 2 their agreement would be terminated if they didn't  
 3 drop the lawsuit, correct?  
 4 MS. CARSON: Objection. Misstates prior  
 5 testimony.  
 6 Go ahead and answer.  
 7 THE WITNESS: It could be, but it was  
 8 never terminated. That was an option.  
 9 BY MR. POTTS:  
 10 Q Why wasn't it terminated?  
 11 A I think that we -- the preference would be that we  
 12 would work through -- work through the agreement with  
 13 the friends. As we talked about, they're -- they're  
 14 a valuable resource for the park and for the  
 15 department. They have a lot -- they have a lot to  
 16 offer the park and the department and the visitors.  
 17 Our preference has always been to work -- work with  
 18 them, to continue with that relationship.  
 19 Q I understand, but -- I understand that, but that  
 20 implies the continuing relationship, at least based  
 21 on this agenda, would -- would require them to drop  
 22 the lawsuit, correct?  
 23 MS. CARSON: Objection.  
 24 THE WITNESS: No.  
 25 MS. CARSON: Argumentative.

1 STEVEN SCHMELZER  
 2 Go ahead and answer.  
 3 THE WITNESS: Not necessarily. They could  
 4 continue the lawsuit as a -- as a non-recognized  
 5 group for a friends group.  
 6 BY MR. POTTS:  
 7 Q I understand, but I guess, again, turning back to  
 8 Exhibit 59, the -- where we were under the bullet  
 9 review of existing agreement, do you see that?  
 10 A Yes.  
 11 Q And the second bullet is only way to cure is to drop  
 12 the suit. The suit has not been dropped, correct?  
 13 A That's correct.  
 14 Q And the department has not terminated the agreement,  
 15 correct?  
 16 A That's correct.  
 17 Q Did -- what changed between then and now?  
 18 A When -- when we talked with Willi and Greg, we  
 19 didn't -- we didn't say, hey, we're terminating this  
 20 today and that's it. We just said, hey, we thought  
 21 it was in violation of the agreement, and the  
 22 possibility exists it could be terminated. We never  
 23 said we're terminating this agreement.  
 24 Q So if Willi and Greg were to testify that at the end  
 25 of the friends group meeting they specifically asked

1 STEVEN SCHMELZER  
 2 you, are you -- and, quotes, you are saying if we  
 3 don't drop the lawsuit you are going to terminate the  
 4 agreement, and you said yes, that they are lying  
 5 about that?

6 MS. CARSON: Objection. Argumentative.  
 7 Go ahead and answer.

8 THE WITNESS: At the end of the meeting  
 9 when we talked with them, we had said they were  
 10 going -- they were going to go back and talk to  
 11 their -- to the friends, to the board, to talk about  
 12 what their -- what their options would be; and then  
 13 they could -- they could let us know what -- you  
 14 know, what they were. And I think they also asked  
 15 about the master plan, you know, some more  
 16 discussion on the master plan, but, you know, if --  
 17 and that's I think where we left it. We didn't say  
 18 that, oh, we're going to -- you know, we're going to  
 19 terminate the agreement. I mean, I think we -- we  
 20 could have just sent a letter saying, hey, we're  
 21 terminating this agreement, but we didn't do that.

22 MR. POTTS: Can you read back the question  
 23 I asked again because I asked a very specific  
 24 question and I'd like you to answer that one,  
 25 please.

1 STEVEN SCHMELZER  
 2 A I think, yeah, they were going to know -- they were  
 3 going to talk with the board and determine their next  
 4 steps.  
 5 Q And the next step we're talking about on August 16th  
 6 would be whether to drop the lawsuit, correct?  
 7 A I don't think it was being like, hey, let us know by  
 8 this date if you're going to drop the lawsuit and  
 9 then we're going to terminate the agreement. There  
 10 was never, like that I recall, a frank discussion. I  
 11 think it was going to be, hey, they were going to let  
 12 us know they were going to take it back to the board  
 13 and talk about what we were going to talk about.  
 14 Q It was a fair assumption on the -- Willi and Greg's  
 15 part that if they did not drop the lawsuit by you  
 16 said August 16th that the department was going to  
 17 terminate the friends group agreement?  
 18 A I guess you would have to ask them that, I mean, how  
 19 they felt. They may have felt that -- that, yeah,  
 20 if -- if the lawsuit wasn't dropped that the  
 21 agreement could potentially be terminated, and we  
 22 talked about that. But did we say, hey, if you don't  
 23 drop it by this date, it's going to be terminated, no  
 24 matter what? I don't think it was that. I mean, it  
 25 was a very low key -- I mean, there was no problems

1 STEVEN SCHMELZER  
 2 (RECORD READ.)  
 3 MS. CARSON: Same objection.  
 4 THE WITNESS: Again, we said that the --  
 5 we wanted to continue to work with them, and we went  
 6 as far as the agreement is concerned that that --  
 7 that might happen. And if -- and if they came  
 8 back and said, no, we're not dropping the lawsuit,  
 9 could that potentially be an action that happened,  
 10 yes.  
 11 BY MR. POTTS:  
 12 Q Well, did -- did the --  
 13 A But our intention was not at the time to say, hey,  
 14 drop it now or we're going to terminate it tomorrow.  
 15 That wasn't the -- we wanted to talk with them about  
 16 it before -- before we did anything else.  
 17 Q Did you give them a deadline to drop the lawsuit?  
 18 A I think we had talked about can you -- they were  
 19 going to let us know within a week or so, and then I  
 20 believe that they said, oh, they have a meeting  
 21 coming up on the 16th or something like that and  
 22 we're like, yeah, that's fine, you can let us know  
 23 what the --  
 24 Q So again, they would be letting you know whether they  
 25 would drop the lawsuit, correct?

1 STEVEN SCHMELZER  
 2 in the meeting.  
 3 Q And I guess my question isn't what they felt, it's  
 4 whether you think it was a reasonable interpretation  
 5 on their part that if they didn't drop the lawsuit  
 6 the department was going to terminate the friends  
 7 group agreement?  
 8 MS. CARSON: Objection. Asked and  
 9 answered.  
 10 MR. POTTS: You can still answer.  
 11 THE WITNESS: A reasonable interpretation  
 12 of what they thought? I guess you would have to ask  
 13 them.  
 14 BY MR. POTTS:  
 15 Q I'm asking you whether -- you were in this meeting,  
 16 right?  
 17 A Yes.  
 18 Q And there were four of you, correct?  
 19 A Yes.  
 20 Q And you went through an agenda that we have, and it  
 21 says in bullet two, only way to cure is to drop the  
 22 suit, correct?  
 23 A Yes.  
 24 Q And I'm asking you whether it was a reasonable  
 25 interpretation for the other two people you were

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1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	communicating to walk away from that meeting	2	not want to discuss the litigation at the meeting?
3	thinking if they don't drop the lawsuit the	3	I don't recall.
4	department is going to terminate the agreement?	4	Q Back on Exhibit 47, which are the responses to the interrogatories, there's no page numbers so I'm going to go on page 5, which is under the heading -- or just above the short August 5, 2021 heading -- and it actually starts on page 4. It's a description of the meeting that occurred on August 5, 2021. It says that the friends -- and again, I'm on page 5 -- they thanked Missy and Steve multiple times for meeting with them rather than sending a letter with no explanation as they put it.
5	A To some extent. But we also -- the meeting started with we want to continue this partnership, we want to continue to work together.	5	
6		6	
7		7	
8	Q Right. But part of that was assuming they dropped the lawsuit, correct?	8	
9		9	
10	A That -- the lawsuit obviously was the -- what we talked about that was in violation of the agreement.	10	
11		11	
12	Q Okay. Let me talk to you about the events leading up to this meeting.	12	
13		13	
14	Were you in communications with the friends group prior to the August 5th meeting?	14	What letter were they referring to?
15		15	A The -- if we were going to terminate the agreement, I believe it has to be in writing.
16	A Me personally?	16	
17	Q Correct.	17	Q So Willi and Greg were thanking you and Missy for not already having sent the letter; is that correct?
18	A No, I don't believe I was.	18	
19	Q That was Missy that set up the meeting?	19	A Yes.
20	A Yes.	20	Q Did you or Missy ever tell Willi and Greg that you could have just sent the letter?
21	Q And did -- were you ever on any of the phone calls or conversations between Missy and I think it was Willi to set up the meeting?	21	
22		22	A Yeah, I think we -- we had said that, you know, the -- it could have -- it could have been done that way.
23		23	
24	A No.	24	
25	Q Were you ever told that the friends group members did	25	Q And who would decide to send the letter terminating a
	Page 76		Page 77
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	friends group agreement?	2	like it went all right. I mean, that we, you know, gave them the information and that was probably possible.
3	A It would be myself, probably legal, and other department staff.	3	
4		4	
5	Q But you could decide in your role as the state parks director to terminate a friends group agreement if they were violating it?	5	Q Did you ever talk to Ms. Brusoe about this meeting prior to it occurring?
6		6	
7		7	A I'm sure I probably did.
8	A Yes.	8	Q Did you ever talk to Ms. Brusoe prior to the
9	Q It says on August 5th you had another conversation with Ms. Vanlanduyt following the meeting. What was	9	August 5th meeting about the fact that you thought they were -- the friends group was violating the agreement?
10		10	
11	discussed at that follow-up meeting?	11	
12	A I think just how we thought it went.	12	A Probably.
13	Q And -- sorry. Go ahead.	13	Q Did you ever -- I guess I'm trying to understand what Ms. Brusoe's role was prior to this meeting. Can you just generally describe?
14	A I never met Willi and Greg. They seemed to be very nice, easy to work with.	14	
15		15	
16	Q And after the meeting, was it your impression that the friends group was likely to drop the lawsuit?	16	She was your boss, right, at the time?
17		17	A Yes.
18	A It's hard for me to say if it was likely they were going to -- if they were going to do it.	18	Q And did you meet with her prior to this meeting to talk about what -- did you and/or Missy meet with her to talk about what you plan to -- actions you plan to take at the meeting?
19		19	
20	Q I just wondered what you thought at the time.	20	
21	A It was a possibility I would think.	21	
22	Q Did you think -- I mean, when you and Missy talked after the meeting, did you all talk about whether you thought they were going to drop the lawsuit?	22	MS. CARSON: Just -- I want to caution you that if you want to talk about meetings that involved attorneys, you don't provide that information, but other meetings you can testify
23		23	
24		24	
25	A I think in general we just said it seemed like it --	25	

1 STEVEN SCHMELZER

2 about.

3 THE WITNESS: I don't recall any specific  
 4 meetings where it was Diane and Missy and I and we  
 5 talked specifically about this meeting. We -- and,  
 6 I mean, I had been on the job, what, two weeks? And  
 7 so I would probably meet with Diane on -- multiple  
 8 times a week, you know. So was it ever a specific  
 9 meeting that laid out, okay, this is -- we're going  
 10 to talk about Blue Mound, no. There was a list of  
 11 topics I'm sure that we may have -- we may have  
 12 talked about, and Diane may have been in transition  
 13 at, like, the section meeting, you know, maybe the  
 14 previous -- I had maybe two of those, so maybe she  
 15 was there and -- but it was -- I don't recall any  
 16 specific meetings with the three of us and talked  
 17 about, oh, this is what all we talked about.

18 BY MR. POTTS:

19 Q And I guess I don't need to be that specific. What  
 20 I'm trying to understand is did -- would Ms. Brusoe  
 21 have known what you and Missy were going to talk to  
 22 the friends group about at the August 5th meeting  
 23 before you did it?

24 A Oh, I'm guessing she would have. I mean, I was two  
 25 weeks on the job, so I'm --

1 STEVEN SCHMELZER

2 Q You wouldn't have gone to that meeting without  
 3 talking to her about it?

4 A I'm guessing I would have -- yeah, I would have -- we  
 5 would have talked about it.

6 Q Okay.

7 A But, you know, did she look at the -- you know, the  
 8 note, you know, Missy's notes? I -- I'd have to ask  
 9 her that. I don't recall exactly, but --

10 Q And would -- would she have generally been aware that  
 11 the department was at least considering terminating  
 12 the friends group if the Blue -- terminating the  
 13 friends group agreement if Blue Mound friends group  
 14 didn't drop the lawsuit?

15 A Say that again.

16 MR. POTTS: You want to -- and I have --  
 17 just so you know, I have her read it back just so we  
 18 don't have the same thing over and over in the  
 19 transcript.

20 (RECORD READ.)

21 THE WITNESS: I would say she obviously  
 22 knew that was a possibility.

23 BY MR. POTTS:

24 Q I mean, did she --

25 A We never -- I'm sorry.

1 STEVEN SCHMELZER

2 Q Did she -- did she know that you were going to be  
 3 talking about that at this meeting?

4 A Yes, I would say she probably did.

5 Q Okay.

6 A We probably talked about it.

7 Q On -- back to Exhibit 47, I'm on the August 6th date  
 8 now, it says there was an FWP, which I am assuming is  
 9 fish and wildlife, division leadership team meeting  
 10 and then afterwards you met for 30 minutes with Missy  
 11 to discuss the meeting.

12 Do you remember what you discussed in that  
 13 August 6th meeting?

14 A Seeing it was with the fish and wildlife parks  
 15 division, probably just let them know that we had a  
 16 meeting with -- with the friends.

17 Q Yeah. Thanks. I wanted to clarify. I meant -- it  
 18 says you met afterwards with just Missy for 30  
 19 minutes to discuss the meeting.

20 A I think that's referring to the meeting that we had  
 21 after the -- the August 5th meeting and just talked  
 22 about how we thought the meeting went. She's --  
 23 she's not on fish and wildlife and parks division  
 24 leadership team meeting.

25 Q All right. And then on August 11th there's another

1 STEVEN SCHMELZER

2 meeting between you, Ms. Brusoe, Mr. Hefty, and  
 3 Ms. Vanlanduyt; and at that meeting, what occurred?

4 A We probably discussed the -- how the meeting -- how

5 we thought the meeting went.

6 Q And on August 11th, was it this -- it was your  
 7 position and Ms. Brusoe and Mr. Hefty and  
 8 Ms. Vanlanduyt, the four of you in this meeting, was  
 9 it still your position that the DNR was likely to  
 10 terminate the friends group agreement --

11 A No. I'm sorry.

12 Q Likely to terminate the friends group agreement if  
 13 they did not drop the lawsuit?

14 A No.

15 Q Why not?

16 A We hadn't determined that the agreement was going to  
 17 be terminated. We talked about that that was a  
 18 possibility, but it was never by this date it's going  
 19 to be terminated or that -- there was never  
 20 discussion of that.

21 Q All right. And then on October 13, 2021 there's a  
 22 meeting between Deputy Secretary Todd Ames, Division  
 23 Administrator Keith Warnke, Diane Brusoe, you, and  
 24 Ms. Vanlanduyt and two DNR attorneys; and I have to  
 25 be careful here because I don't want you to talk

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about what you talked about with the attorneys, but it does state specifically in this response that at this meeting Todd Ames emphatically affirmed and reiterated the department's position that it would not exercise termination rights under the friends group agreement and that the department would not treat the friends group's legal action as a violation of the friends agreement.

Do you see that?

A Yes.

Q Was that -- was this meeting the first time Mr. Ames had been talked to about this issue?

A I don't know.

Q Was this the first time you and Missy had talked to Mr. Ames about this issue?

A I never talked with him about it.

Q Not prior to this meeting?

A No.

Q And Mr. Ames is your boss; is that correct?

A Diane is my boss.

Q Oh, but he's Diane's boss?

A Yes, he would have been at that time.

Q So he's up the chain from you?

A Yes.

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Q But you're not aware of Mr. Ames being consulted prior to this meeting about this issue?

A I have no knowledge if or when that occurred.

Q Can I turn you to Exhibit 23, please.

THE WITNESS: Okay. Do you mind if I just take a quick break?

MR. POTTS: Yeah, sure. We can take a break. Sorry.

(Break taken from 11:06 a.m. to 11:27 a.m.)

BY MR. POTTS:

Q Okay. I was turning your attention to Exhibit 23, and at the top of that exhibit is an e-mail from you to Missy on July 12th that's talking about the Blue Mound petition, or at least the subject is Blue Mound petition for judicial review.

Do you see that e-mail?

A Yes.

Q Okay. And the -- it says Missy, quote, Kevin is working on a document that lays out the scope of the friends help to the park. He will get that to us early in the week. Why was Kevin preparing a document that lays out the scope of the friends help to the park?

A I think so everybody would be aware of it.

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Q And then the next sentence says, he thinks that Bill would be open to meeting with us. Who's Bill?

A Willi.

Q Oh, okay. And then it says, once the information -- once we have the information, you can craft an action plan we can seek approval for.

What did you mean by craft an action plan?

A I think to -- like, a policy brief or a briefing on what could possibly happen.

Q Okay. And actually I'm going to ask you some questions about -- so were you talking about the -- the policy brief that was later --

A Yes.

Q -- put together here?

Okay. And -- and who would you need to seek approval from?

A From -- well, typically in a situation like a policy brief like that, it would go to my supervisor and potentially legal.

Q And at this point were you the Director of State Parks yet?

A That would have been my first day.

Q Okay. So your director would have been Diane Brusoe?

A Yes.

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Q I see. Okay. You hadn't even changed your e-mail? A No, I hadn't.

Q Okay. All right. I'd like to turn your attention to Exhibit 24, and in particular you're not on any of these e-mails I don't believe, but I wanted to ask you about something that Missy said in this e-mail on the first page on Monday, May 24, 2021. And Missy's e-mailing Ms. Brusoe, who we've established is now your boss, and she says here's some points about friends groups; and then the first bullet, we have agreements with friends groups. Those agreements outline our ability to dissolve the agreement for multiple reasons, including friends groups speaking out publicly against the department.

Is that the department's position that friends groups are not allowed to speak out publicly against the department?

A I am just reading this over. I think they could -- I think they could voice -- voice that for sure if there was something they might be opposed to.

Q And I guess turning to the last bullet point on that same e-mail, it says in the event that a friends group does speak out publicly against the department, it is the program's responsibility to determine the

	Page 86		Page 87
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	risks and opportunities associated with the friends	2	All right. So -9524 and -9525 and then sort of blank
3	group when determining if dissolution of the	3	page -9526, is that the policy brief that you were
4	agreement is warranted.	4	referring to earlier when we were discussing the
5	Is that still the department's position	5	action plan?
6	today?	6	A Yes.
7	A Yeah, I think that's -- that would be accurate.	7	Q Okay. And when does the DNR generally create these
8	MR. POTTS: Okay. I'd like to turn you	8	policy briefs?
9	back to Exhibit 8. I believe when we were talking	9	A I guess for policies or issues or things that come
10	about Exhibit 23, you mentioned a policy brief, and	10	up, I guess. I don't know specifically when you --
11	I -- I think we have that policy brief, or at least	11	when you do it or you don't do it, but --
12	the version of it in Exhibit 8. And I'm looking at	12	Q Okay. So there's not like a specific protocol for
13	page -9538 through -42. Maybe not. Hold on a	13	when to do it or not to do it that you're aware of?
14	second.	14	A Yeah. I mean, most -- if it's, you know, more
15	THE WITNESS: -9524?	15	decision-based items, especially maybe if it goes
16	MR. POTTS: -9540.	16	above us potentially, then that would be one. When I
17	MS. CARSON: You're looking for the one	17	say us, I mean, like, the program.
18	with the comment on it?	18	Q And to your knowledge was Ms. Brusoe involved in
19	MR. POTTS: I guess it doesn't matter	19	reviewing this policy brief?
20	which one. Which one doesn't have the comments is	20	A I -- I believe she's -- she saw it, but I -- I don't
21	fine with me.	21	know for sure. Actually, I probably sent it to her
22	MS. CARSON: I'm looking at -9524.	22	so she was aware of it, yes.
23	MR. POTTS: We'll work off that one for	23	Q And then on page -9525 it says there's three options
24	now.	24	laid out here, terminate the agreement with option
25	BY MR. POTTS:	25	one, terminate the agreement with a friends group
	Page 88		Page 89
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	with opportunity to cure, and then there's some risks	2	the department will share that it is a strong
3	and opportunities listed; option two is do nothing;	3	possibility that the friends group will receive a
4	and option three is modify our partnership activities	4	letter of termination with the opportunity to cure,
5	with the friends group during this time. And then	5	but the only way to cure would be to drop the
6	under all of them it has risks and opportunities.	6	litigation.
7	Did I read that correctly?	7	Did I read that correctly?
8	A Yep.	8	A Yeah.
9	Q And then the first sentence below that says, is the	9	Q And is that in line with what happened at the
10	recommendation of the program to discuss the	10	August 5th meeting?
11	possibility of the department modifying our	11	A Yeah. I mean, we -- we said that this language
12	activities or terminating our agreement with the	12	sounds a little stronger to me, strong possibility
13	friends group president directly prior to making a	13	that friends group will receive a letter of
14	final decision on how to move forward.	14	termination. We never said on this date you're going
15	Do you see that?	15	to get a letter of termination. We said that there's
16	A Is it that last paragraph here?	16	a possibility that that could happen, but we never --
17	Q It's the -- that's the last paragraph. Yeah, sorry.	17	You didn't say it was a strong possibility?
18	The paragraph that starts under number three.	18	A No, I don't think we said it that way.
19	A Okay.	19	Q All right. Exhibit 25 you should have in front of
20	Q And then I want to point to the last -- well, the	20	you, and this is an e-mail from Ms. Brusoe to you
21	sentence I just read basically says it's the	21	on -- I'm sorry. If you look at the second e-mail in
22	department's position that you should talk to the	22	this chain, it's from you to Ms. Brusoe and it says,
23	friends group president directly; is that correct?	23	Diane, here's the draft of the Blue Mound issue
24	A Yes.	24	brief. I made a few minor changes. Would like to
25	Q And then the last sentence of that paragraph said,	25	talk to you about this before it is moved on.

	Page 90		Page 91
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	And when you say issue brief, is that the	2	there.
3	same as the policy brief?	3	Q I mean, was it your understanding that Ms. Brusoe
4	A Yes, yes.	4	supported at least the possibility of terminating the
5	Q Okay. And that's the one we were just discussing?	5	friends group agreement if they didn't drop the
6	A Uh-huh.	6	lawsuit?
7	Q You got to say yes.	7	A I think there was a possibility of that.
8	A Yes. I'm sorry.	8	Q And Ms. Brusoe was aware of that possibility at the
9	Q All right. And then Dianne says, yes, let's discuss	9	time?
10	when Missy gets back. I really see one -- I really	10	A I'm guessing she was. I --
11	only see one option here.	11	Q I mean, she -- she clearly got this issue brief.
12	Do you see that?	12	A She saw the issue brief.
13	A Yes.	13	MR. POTTS: Sorry. One at a time.
14	Q What option was Ms. Brusoe talking about?	14	BY MR. POTTS:
15	A I'm thinking it was to meet with the friends.	15	Q She definitely saw the issue brief?
16	Q Is that -- I mean, there's three options in that	16	A Right. So she knew -- I would guess she knew that
17	issue brief, terminate the agreement with the friends	17	was a possibility.
18	group with opportunity to cure, do nothing, or modify	18	Q And did you discuss it with her?
19	our partnership activities with the friends group	19	A Probably, yes.
20	during this time.	20	MR. POTTS: Can I see Exhibit B?
21	Is -- was she talking about one of those	21	(Exhibit 60 marked for identification.)
22	three options in your opinion?	22	BY MR. POTTS:
23	A I'm guessing that we would go meet with the friends.	23	Q Mr. Schmelzer, this is an e-mail between Missy and
24	I -- I don't recall. I mean, I guess we'd have to	24	Willi Van Haren, and in this she says, Hi, Willi. I
25	ask her what -- what she sees as the only option	25	hope you're well and enjoying your summer. Steve
	Page 92		Page 93
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	Schmelzer, former southwest park district supervisor	2	say anything about the litigation?
3	is now our program bureau director replacing Ben	3	THE WITNESS: Yes, it doesn't say
4	Bergey. Steve and I would like to meet in person	4	litigation in there.
5	with you next week to hopefully discuss the Blue	5	MR. POTTS: Okay.
6	Mound master plan, our agreement, and answer	6	THE WITNESS: Sorry.
7	questions you may have. Our intent is to hopefully	7	MS. CARSON: That's okay. I just don't
8	meet at the park. And then she goes on to talk about	8	want to read the transcript later and be confused.
9	the specific scheduling issues.	9	MR. POTTS: Exhibit C. Can I turn you
10	Were you aware that Missy was sending this	10	back to Exhibit 59.
11	e-mail to Willi?	11	(Discussion held off the record.)
12	A Uh-huh. I knew she was going to contact him.	12	BY MR. POTTS:
13	Q You got to say yes, sir.	13	Q In this e-mail between Missy and you, again the day
14	A Yes. Sorry, I still had water.	14	before the meeting, which we've discussed, it says, I
15	Q And is there anywhere in this e-mail that says that	15	asked Willi for a list of people. It included Karl.
16	the discussion -- or that a topic of the meeting will	16	I requested we meet without Karl or figure out a
17	be the litigation?	17	different date at which we could meet without Karl so
18	A No.	18	we'll see.
19	Q Would you agree that the --	19	Who is Karl?
20	A I mean, it says the Blue Mound master plan, our	20	A Karl Heil.
21	agreement, and answer questions you may have.	21	Q And why did Missy not want Karl in the meeting, if
22	Q It doesn't say anything about the litigation; is that	22	you know?
23	correct?	23	A I would say Karl can be maybe a little overzealous on
24	A No.	24	items.
25	MS. CARSON: It is correct that it doesn't	25	Q Okay. And was that -- was it Missy's idea to not

	Page 94		Page 95
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	have Karl be at the meeting, or was that your idea?	2	that call?
3 A	I think we probably all talked about that.	3 A	I don't know if I did or not.
4 Q	And the reason you didn't want Karl in the meeting	4 Q	Can't remember?
5	was because he could be overzealous; is that fair?	5 A	No, I --
6 A	Yeah. Yes.	6 Q	Okay. So then you also probably don't remember what
7 Q	In your experience is it common with meeting with	7	you would have said on the call?
8	friends groups to ask them not to bring people to a	8 A	No.
9	meeting?	9 Q	We talked about Mr. Swenson a little bit. He's
10 A	I don't know if that's common or not.	10	the -- well, what's his title?
11 Q	Have you ever seen it before?	11 A	He's the property manager.
12 A	Not that I'm aware of.	12 Q	At Blue Mound State Park?
13	MR. POTTS: I'm going to mark this as	13 A	Yeah, park manager, property manager.
14	Exhibit 61.	14 Q	And Mr. Swenson probably interfaces quite a bit with
15	(Exhibit 61 marked for identification.)	15	the Blue Mound friends group; is that right?
16 BY MR. POTTS:		16 A	Yes.
17 Q	And Exhibit 61 was produced to us in discovery, I	17 Q	And were you concerned about Mr. Swenson's ability to
18	believe, and is a text chain between you and	18	do his job because of the pending lawsuit with the
19	Ms. Brusoe; is that correct?	19	friends group?
20 A	Yeah, I think so.	20 A	No.
21 Q	And it says on August 19th, I see you wanted to talk	21 Q	Are you aware of any other friends groups facing
22	about BMSP. Is BMSP the Blue Mound State Park?	22	potential termination of their agreement at this
23 A	Yes.	23	time?
24 Q	And then you say, can I call you later on this?	24 A	No.
25	What did you talk about -- or did you have	25 Q	Back prior to the -- or around the time of the
	Page 96		Page 97
1	STEVEN SCHMELZER	1	STEVEN SCHMELZER
2	August 5th meeting, were you personally in support of	2	quick break. I want to see if I have any other
3	terminating the friends group agreement if they	3	questions and be done soon.
4	didn't drop the lawsuit?	4	MS. CARSON: Okay.
5 A	Personally or -- or as a department representative?	5	(Break taken from 11:53 a.m. to 11:54 a.m.)
6	I guess I --	6	MR. POTTS: I just have one last question.
7 Q	Either.	7 BY MR. POTTS:	
8 A	My presence would have been to not terminate it, to	8 Q	What -- was the goal of the August 5th meeting to get
9	work with -- to work with, you know, the friends on	9	the friends group to drop the lawsuit?
10	this.	10 A	I think the goal was to make them aware that we --
11 Q	But if they -- if they didn't drop the lawsuit and	11	the department thought it was in violation of the
12	you had to make a decision, would your decision have	12	agreement, to have them understand that part of it,
13	been to terminate the friends group agreement?	13	that by -- you know, the lawsuit was in violation --
14 A	Hard to say. I don't -- while I can certainly make	14	or our opinion was it was in violation of the
15	that decision, I would have -- you know, I would have	15	agreement, so the possibility exists that it could be
16	talked with -- you know, if it got to that point,	16	terminated.
17	would have talked with a number of other department	17	MR. POTTS: Okay.
18	staff to determine if that was in the best interest	18	THE WITNESS: Does that answer your
19	of the department.	19	question?
20 Q	And would the -- if you did terminate the friends	20	MR. POTTS: Yeah. I don't have anything
21	group agreement, what would happen to the money that	21	further.
22	the friends group had in its bank accounts, do you	22	MS. CARSON: No.
23	know?	23	MR. POTTS: I would like to put on the
24 A	It goes back to the state.	24	record, though, the possibility of continuing the
25	MR. POTTS: All right. Let's just take a	25	deposition. We are -- I'm -- we've had a few

1 STEVEN SCHMELZER  
 2 back-and-forth e-mails about whether documents have  
 3 been fully produced; and if there are additional  
 4 documents that I haven't had today that come out,  
 5 I'd like to leave the possibility of recalling him,  
 6 but we're done for today.

7 MS. CARSON: Okay.

8 (Original exhibits attached to the  
 9 original transcript; copies provided to attorneys  
 10 ordering exhibit copies.)

11 (The deposition concluded at 11:56 a.m.)

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1 STATE OF WISCONSIN )  
 2 MILWAUKEE COUNTY )  
 3 I, JENNIFER M. STEIDTMANN, Registered  
 4 Professional Reporter, Certified Realtime Reporter,  
 5 Certified Realtime Captioner, and Notary Public in and for  
 6 the State of Wisconsin, do hereby certify that the  
 7 preceding deposition of STEVEN SCHMELZER was recorded by  
 8 me and reduced to writing under my personal direction at  
 9 Perkins Coie, LLP, 33 East Main Street, Suite 201,  
 10 Madison, Wisconsin, on the 1st day of June, 2022,  
 11 commencing at 8:56 a.m. and concluding at 11:56 a.m.  
 12  
 13 I further certify that I am not a relative or  
 14 employee or attorney or counsel of any of the parties, or  
 15 a relative or employee of such attorney or counsel, or  
 16 financially interested directly or indirectly in this  
 17 action.  
 18 In witness whereof I have hereunto set my hand  
 19 and affixed my seal of office on this 13th day of June,  
 20 2022.  
 21 *Jennifer steidtmann*  
 22 JENNIFER M. STEIDTMANN, RPR, CRR, CRC  
 23  
 24 Notary Public in and for the State of Wisconsin  
 25 My Commission expires 11/2/2022

1 ERRATA SHEET

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

6 \_\_\_\_\_  
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Signature of Deponent

21

22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

24 \_\_\_\_\_

25 (Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

1 STEVEN SCHMELZER

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